Docket No.: 22841-018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Paul NICOLSON, et al.

Serial No.: 09/640,526

Filed: August 17, 2000

For:

: EXTENDED WEAR OPHTHALMIC LENS

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Group Art Unit: 1714

Examiner: Paul R. Michl

Honorable Commissioner of Patents and Trademarks Washington, D. C. 20231

Sir:

The owner, Ciba Vision Corporation of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent Nos. 5,965,631, 5,760,100 and 5,776,999. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

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statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently

shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a

maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction,

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all

claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated

prior to the expiration of its full statutory term as presently shortened by any terminal

disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and

that all statements made on information and belief are believed to be true; and further that

these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code and that such willful false statements may jeopardize the validity of the

application or any patent issuing thereon.

The undersigned is an attorney of record and therefore the certification under 37

CFR 3.73(b) is not required.

Please charge the \$110.00 Disclaimer fee to Deposit Account Number 500417.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Registration No. 26,151

600 13th Street, N.W.

Washington, DC 20005-3096 (202)756-8000 KLC:MWE

Facsimile: (202)756-8087

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